

Daniel Portugal

v.

T. Felker - warden E + A.I.
Custody staff

Case No. C 08-276-CRB

Motion seeking

Issuance of temporary
Restraining order - against
Custody staff from any
future threats against me
& harassment, reprisals
By the staff of any
manner;

I Daniel Portugal - Do Solemnly
Swear, that this entire entitled
Document to the best of my ability
and knowledge is true and correct, under
the Penalty of Perjury and According to the letter of the
Law and to the color of the law, I am seeking and
Requesting of your honorable court, the issuance of this
Motion regarding my present, and future safety, and on
an against this prisons custody staff - in an with my
Handing a threats of physical harm to my person, by
Custody staff that is, Has been envoed with my
Movement & in dealing with me many manner - since
my arrival at High Desert State Prison. Due to my
being transferred here from Salinas Valley State Prison
and due to being a somewhat successful Prison
Litigator, and Safety & security issues there from threats
of violence & harm to my person, verbally as well being
overheard by staff upon my arrival at H.D.S.P. at
receiving & release (R&R) I was verbally threatment
by staff, as soon as they saw my legalwork, Do to
nature of my transfer to there institution as they have
display a flagrant attitude towards & against S.V.P.
Inmates and they make that quite clear by physical
Verbal abuse of, towards (us) myself shortly after
my arrival I wrote a letter to the warden T. Felker
regarding this matter of my concerns, my reauesting
to be placed in A.S.U. or a transfer emergency.

1 go to my concerns as I've laid them out in
 2 this motion for your Honorable court, and for
 3 whatever reason's my request's or letter's were
 4 Denied, now a have five numerous W.O. Form's
 5 against H.D.S.P. for denial appellant to medical care
 6 by exposed to pain and suffering to live on
 7 this medical conditions, appellant request for emergency
 8 care category as determined by health care staff
 9 to alleviate disabling pain immediate this matter
 10 continue for 3 months now, to this day this staff
 11 allow appellant to unnecessary pain by denial to
 12 re-new his chrono for a extra mattress, pillow
 13 according to my chrono is permanent a copy is attach
 14 on the back of this motion.
 15 2) now T. Felker warden has open my legal mail
 16 without my present and return back with a
 17 Memorandum stated appellant has to submit
 18 a WDCR-602 form to try to address my issues
 19 with inmate appeal office's. this matter is a
 20 violation of appellant constitution rights was
 21 mail was read by the warden, according to the
 22 First and sixth Amendment violation. this case law
 23 stated clear the officials are not allowed to
 24 read or censor this type of mail, however, they can
 25 open it and inspect it for contraband as long as
 26 they do it in front of appellant see Wolff v.
 27 McDonnell, 418 U.S. 539 (1744).

3)
 1 as well according to chapter 3 section 3.3 a
 2 transfer may violate some other constitution
 3 protection for example a transfer might subject
 4 a prisoner to cruel and unusual punishment if the
 5 prison would be placed with known enemies or others
 6 who would cause serious harm. the FIFTH circuit
 7 held that it "determine whether any of those
 8 incidents individually constituted an Eighteen
 9 amendment violation appellant rights.
 10 4.) prisoner are often very concerned about where
 11 they serve their time, especially if they where or
 12 hope to receive visits from family and friends
 13 "family ties", prison placement are specifically
 14 discussed in 3.4. or they wish to be in a particular
 15 program or housing arrangement that is available
 16 only at certain prison's. once a person is validly
 17 convicted, the requirement of due process under the
 18 fourteenth amendment of the U.S. Constitution. see
 19 Farmer V. Brennan (1994) 51 U.S. 825 (1970; 128
 20 L.Ed.2d 811) prison officials have duty to protect
 21 prisoners from violence at the hands of other
 22 prisoners; a constitutional violation occurs when
 23 the danger of harm is "sufficiently serious" and
 24 the prison official acts with "deliberate indifference"
 25 "to inmates health or safety" (see also ^b 2.24
 26 concerning reasonable safety concerns, chapter 7. concerning
 27 housing needs related to medical care.

V.
Warden T. Felker
ET AL) custody staff

Points of Authority

- 1.) Cruz v. Beto, 405 U.S. 319, 31 Led 2d 263, 92 S.Ct 1079 (1972);
- 2.) Cooper v. Potts, 378 U.S. 546, 12 Led 2d 1030, 84 S.Ct. 1733 (1964);
- 3.) Wolff v. McDonnell, 418 U.S. 539, 41 Led 2d 935, 94 S.Ct 2983 (1974)
- 4.) Hudson v. Palmer, 468 U.S. 517, 526-27, 104 S.Ct. 3194, 82 Led 2d 393 (1984)
- 5.) Desharnais v. Winnebago County Dept of School Services, 489 U.S. 189, 200 109 S.Ct 998/103 Led 2d 2491 (1989)
- 6.) Youngberg v. Romeo, 757 U.S. 307 315-16, 102 S.Ct. 2452, 73 L.Ed 2d 28 (1982)
- 7.) Farmer v. U.S. 511 U.S. AT 834, 114 S.Ct (1990)
- 8.) Moore v. malous, 976 F.2d 268, 271 (5th Cir 1992)
- 9.) Martinez v. Stanford, 323 F.3d 1178, 1183 (9th Cir 2003)
- 10.) U.S. v. Lopez U.S. Ca 9th No-05 50415
- 11.) serrato v. Clark U.S. Ca 9th Cir No-06-15167 May 9, 2007;
- 12.) Re-Rosenkrantz (2002) 29 Cal 4th 616, 666-128 Cal Rptr 2nd 1041 = D'AT 651
- 13.) Motley v. Parks, 432 F.3d 1072-1077-78, 9th Cir 2005)

Daniel Portogas

1. Mounsey v. Holotten, 558 F.3d 294 US.103;
2. Deluna (2005) 126 cal app. 4th 585, 591, 24 cal r PTR;
3. McQuillian v. Duncan (9th Cir 2002) 306 F.3d 895 901-902;
4. Redd v. McGrath (9th Cir 2003)
5. Serrato v. Clark, US, CA 9th Cir No. 06-15167; 5/07 9th Cir
6. Olsen v. Waho, 363 F.3d 916, 922 (9th Cir 04)
7. Martinez v. Stanford, 323 F.3d 1178, 1183 (9th Cir 03)
8. Motley v. Parks 432 F.3d 108, 1077-78 (9th Cir 05)

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Daniel Portugal

1. THIS PRISONS NON COMPLIANCE WITH THE, DUE PROCESS CLAUSE
OF THE FEDERAL CONSTITUTION;
2. (342 F.SUPP 616)
3. (483 F.2d 1059)
4. Robert O'McDonnell, ETC - 418 U.S. 539, 412, Ed 2d 935, 94 S.Ct.
2963 No. 73 679 (1974)
5. Garner - SUPRA 529 U.S. 254, AT EXPO FACTO;
6. Formost, RE Rosenkranz, 483 F.2d 1059
7. Included in above cite is Charles Wolff Jr., ETC; ET.
8. AL Petitioner(s)
9. These above & entitled Points & authority are
10. to include & being requested of & by way of your
Honorable court issuing an additional order, that
11. NO REPRISALS BE TAKEN AGAINST, OR SHALL ANY BE ADMIN-
ISTERED TO - ON - OR IN ANY FASHION AGAINST THIS PLAINTIFF
12. IN THIS ENTITLED ACTION IN IT'S ENTIRITY WHICH IS I/M
Daniel Portugal V-51068, & ET AL I/M - AS IS THE
13. PLAINTIFF IN THIS INSTANT ACTION, AND ONGOING PENDING
14. litIGATION - PURSUANT TO THIS UNCONSTITUTIONAL ACTION
OR & BY DEPT-CORRECT & REHAB. - VIOLATING HIS DUE PROCESS
15. RIGHTS - TO UNIMPEDED ACCESS TO THE COURTS,
SUBJECTING THIS PLAINTIFF I/M Daniel Portugal TO
16. CRUEL & UNUSUAL PUNISHMENT THE RIGHT TO BRING A
GRIEVANCE OR ACTION, TO & THROUGH THE ADMINISTRATIVE
17. PROCESS & TO THE COURTS, FREE FROM REPRISALS, THREATS,
18. HARM FROM BY STAFF & I/M'S ALIKE. ACCORDING TO THE
19. LAW & STATE & FEDERAL CONSTITUTIONS, AMENDMENTS
1st, 4th, 8th & 14th OF THE CONSTITUTION.

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Daniel Portugal

INSTRUCTIONS: A physician shall complete this form if an inmate requires an accommodation due to a medical condition. Circle P if the accommodation is to be permanent, or T if the accommodation is to be temporary. If the accommodation is temporary, write the date the accommodation expires on the line. A new form shall be generated when a change to an accommodation is required or upon renewal of a temporary accommodation. Any new form generated shall include previous accommodations, if they still apply. Chronos indicating permanent accommodations shall be viewed annually. This form shall be honored as a permanent chrono at all institutions.

HOUSING

Barrier Free/Wheelchair Access P/T _____
and Floor Cell P/T _____
Continuous Powered Generator P/T _____

Bottom Bunk

P/T _____

Single Cell (See 128-C date: _____)

P/T _____

Permanent OHU / CTC (circle one)

P/T _____

Other _____

P/T _____

MEDICAL EQUIPMENT/SUPPLIES

Pneumostats P/T _____
Prostheses P/T _____
Prostheses P/T _____
Prostheses (type) P/T _____
Prostheses P/T _____
Ring/Catheter/Colostomy Supplies P/T _____
Ring/Catheter/Colostomy Supplies (specify) P/T _____
Peritoneal P/T _____

Wheelchair: (type) _____ P/T _____**Contact Lens(es) & Supplies** _____ P/T _____**Hearing Aid** _____ P/T _____**Special Garment:** _____ P/T _____

(specify) _____ P/T _____

Rx. Glasses: _____ P/T _____**Cotton Bedding** Extra blanket (P/T _____)**Extra Mattress** Extra mattress (P/T _____)**Other** Pillow (P/T _____)**EXTRAS**

Assistant to assist with meal access P/T _____
Assist movement inside the institution.
Patient will not feed or lift the inmate/patient
from elements of personal hygiene.
Chair Accessible Table P/T _____

Therapeutic Diet: (specify) _____ P/T _____**Communication Assistance** _____ P/T _____**Transport Vehicle with Lift** _____ P/T _____**Short Beard** _____ P/T _____**Other** _____ P/T _____**PHYSICAL LIMITATIONS TO JOB ASSIGNMENTS**

Is there any physical limitations to job assignments? Yes No
specify: _____

| | | |
|---|---|---|
| POSITION <i>SUSP</i> | COMPLETED BY (PRINT NAME) <i>D. Portugal</i> | TITLE <i>FIN</i> |
| STURE <i>Mr. D. Portugal</i> | DATE <i>2/29/08</i> | CDC NUMBER, NAME (LAST, FIRST, MI) AND DATE OF BIRTH <i>V51068</i> |
| CMO SIGNATURE <i>D. Portugal</i> | DATE <i>3/19/08</i> | Portugal, Daniel <i>10/16/83 DZ</i> |
| ONE APPROVED <input checked="" type="checkbox"/> DENIED <input type="checkbox"/> | | 1/17 |
| COMPREHENSIVE ACCOMMODATION CHRONO | | |

State of California

Department of Corrections and Rehabilitation
High Desert State Prison

Memorandum

Date : August 22, 2008

To : Inmate Portugal, V-51068
Housing: B4-113Subject : **INMATE/PAROLEE APPEAL FORM AND/OR CORRESPONDENCE**

My office is in receipt of your correspondence dated August 11, 2008. We are returning the correspondence to you so that you may submit a CDCR-602, Inmate/Parolee Appeal form to the Inmate Appeals Office.

You are encouraged to utilize the inmate appeal system when you feel departmental or institutional staff have acted inappropriately or you have a complaint regarding other issues. By writing to the Warden, or outside entities, you are circumventing the inmate appeal process established by the California Code of Regulations, Title 15, Chapter 1, Article 8. As you know, the inmate appeal process was designed for inmates to express their dissatisfaction with any decision or act that they can prove as having an adverse effect upon their welfare [CCR Title 15, Section 3084.1 (a)]. By utilizing the inmate appeal process, you will address your issues through the appropriate chain of command and receive information regarding the most current CDCR policy and procedures that either justifies the action taken or remedies the problem in accordance with applicable rules.

Should you continue to send appeal/complaint type correspondence to this office, it will be returned to you, as you are circumventing the appeals process.


T. FELKER
Warden

To: Gary Jordan,

aug 16 08
#V51068

appellant Daniel Portugal
is writing this letter regarding this
matter.

ON 8-11-08 appellant Daniel Portugal when
to Medical clinic around 7:45 AM and the
Doctor African American Disrespect, intimidate
and threatened appellant if I wrote him up
For denial Medical needs and disrespect.

The reason of going to the clinic was
regarding a 602 complaint. The Doctor stated
if I wrote him up he will pick up where I left
in violation of CCR 15 Art 1.3004 a,b,c.

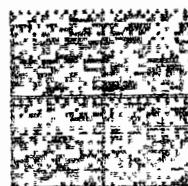
Appellant Daniel Portugal filed a 602
regarding Medical staff complaint but
due to the circumstance this institution
works to slow and I need action fast
regarding this matter appellant ask
High Desert for a category II investigation
but they can corrected this matter.

now with this said I closed this
letter on hope of receive a response
from your offices, thank you.

P.S. my address
High Desert State Prison
Daniel Portugal v-51068
P.O. Box 3030
Suzamville, ca 96127

Daniel Portugal
sincerely

Danville Post Office
V-51068 B4-113



049382046573

\$ 00,420

08/13/2008

Mailed From 96127

US POSTAGE

Gary Jordan
OFFICES OF Internal Affairs
California Department of
Corrections and Rehabilitation
P.O. Box 3009
Sacramento, Cal 95812

legal mail -
per CCR 15 Art 4.3(4)(2)

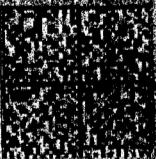
Office of Clerk, U.S.
District Court
Northern District of
California
150 Golden Gate Avenue
San Francisco, Ca 94108

STATE PRISON
BA

RICHARD W. WENKING
CLERK, U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

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1. *Leucosia* sp. (Diptera: Syrphidae) was collected from the surface of the soil at the base of the tree. The species was described by Schiner (1868).



04-108

9/1/08

9/1/08

LEGAL MAIL

Per CCR 15 AT 4 3141 C